

### REMARKS

In response to the final Office Action of March 1, 2007, Applicants ask that all claims be allowed in view of the amendments and the following remarks. Claims 1-33 are pending, with claims 1, 19, and 31 being independent. Claims 1, 19, and 31 have been amended. Support for the amendments may be found in the application at, for example, page 10, line 30 to page 11, line 31 and FIG. 4.

### **Claim Rejections—35 U.S.C. § 102**

Claims 1, 5-9, 11, 14-21, 23, and 26-33 have been rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 6,119,163 (Monteiro). Applicants request reconsideration and withdrawal of this rejection because Monteiro does not describe or suggest the subject matter of the independent claims. For example, Monteiro does not describe or suggest (1) accessing, from a source, a first track of electronic media, the first track being accessed from the source by a client, and (2) accessing, by the client, a rule set from the source, the rule set being configured to respond to an arising condition based on whether the arising condition is met after the first track of electronic media has been accessed, as recited in claim 1.

As indicated by the Abstract, Monteiro is directed toward a scalable architecture for delivery of real-time information over a communications network. Monteiro's architecture may include a Network Control Center that provides the information for delivery. See Monteiro at col. 4, lines 25-26. The architecture also includes a primary server that compresses the information into one of two bit rates. See Monteiro at col. 3, lines 11-14. See also Monteiro at col. 5, lines 1-3. The primary servers forward the compressed information to multiple media servers, which may then forward the information to the users. See Monteiro at col. 3, lines 16-22. To adapt to network congestion and packet loss, software on the users' computers may request use a lower data rate to receive the information. See Monteiro at col. 7, lines 26-30. Software running on the various computers that make up Monteiro's system monitor the ongoing situation and adapt to it by, for example, using different media servers and/or lowering the data rate to the user. See Monteiro at col. 7, lines 22-26.

Thus, Monteiro describes an architecture that allows an end user to receive data at a lower rate, or allows an intermediary media server to vary packet sizes in response to network congestion. In particular, these features are accomplished by software running on various computers in the system rather than by a rule set accessed from a source.

The final Office Action appears to equate the Network Control Center 10, the primary server 20, the media server 30, the control server 50, and/or the administration server 60 with the recited source, and further indicates that the first track of electronic media is accessed by the user 40. See final Office Action of March 1, 2007 at page 2, lines 15-17. However, even if the Network Control Center 10, the primary server 20, the media server 30, the control server 50, and/or the administration server 60 may be equated to the recited source, and further assuming that the user 40 accesses a track of electronic media from any of these elements, there is no indication that the user 40 also accesses a rule set from Network Control Center 10, the primary server 20, the media server 30, the control server 50, and/or the administration server 60. Rather, software running on the various computers that make up Monteiro's system monitor and adapt to network conditions. See Monteiro at col. 7, lines 21-25.

Accordingly, Monteiro does not describe or suggest (1) accessing, from a source, a first track of electronic media, the first track being accessed from the source by a client, and (2) accessing, from the client, a rule set from the source, the rule set being configured to respond to an arising condition based on whether the arising condition is met after the first track of electronic media has been accessed, as recited in claim 1 (with emphasis added). Applicants request reconsideration and withdrawal of the rejection of claim 1, as well as claims 5-9, 11, and 14-18, which depend from claim 1.

Independent claims 19 and 31 recite subject matter similar to that recited in claim 1. Thus, Applicants request reconsideration and withdrawal of the rejection of claims 19 and 31, and dependent claims 20, 21, 23, 26-30, 32, and 33, which depend from claims 19 or 31 for the reasons discussed above with respect to claim 1.

**Claim Rejections—35 U.S.C. § 103**

Claims 2-3, 10, 13, 22, and 25

Dependent claims 2-3, 10, 13, 22, and 25 have been rejected under 35 U.S.C. § 103 over Monteiro in view of U.S. Patent Publication No. 2001/0053944 (Marks). Marks does not remedy the failure of Monteiro to describe or suggest the noted features of the independent claims. Rather, Marks relates to techniques for selecting and modifying real time audio content and other information from the Internet. See Marks at ¶ 0001. Accordingly, Applicants request reconsideration and withdrawal of this rejection.

Claims 4, 12, and 24


Dependent claims 4, 12, and 24 have been rejected under 35 U.S.C. § 103 over Monteiro in view of U.S. Patent Publication No. 2002/0083346 (Rowlands). Rowlands does not remedy the failure of Monteiro to describe or suggest the noted features of the independent claims. Rather, Rowlands relates to techniques for distributing digital data while preserving copyright rights. See Rowlands at ¶ 0001. Accordingly, Applicants request reconsideration and withdrawal of this rejection.

Applicants submit that all claims are in condition for allowance.

The \$790 RCE fee and the Petition for Extension of Time fee of \$450 are being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account authorization. Please apply any other charges or credits to Deposit Account 06-1050.

Respectfully submitted,

Date: 8 7 00 7

  
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Thomas R. Rozyłowicz  
Reg. No. 50,620

Fish & Richardson P.C.  
1425 K Street, N.W.  
11th Floor  
Washington, DC 20005-3500  
Telephone: (202) 783-5070  
Facsimile: (202) 783-2331  
40428652.doc